

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
JOHN A. MARTINOLICH
SHIPBUILDING CORP.,

Appellant,

vs.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 378

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

This matter, the appeal of a \$250.00 civil penalty for an alleged air contaminant emission violation of respondent's Regulation I, came before two members of the Pollution Control Hearings Board (W. A. Gissberg, presiding officer, and Walt Woodward) at a formal hearing in the Board's office at Lacey, Washington, at 11:00 a.m., October 5, 1973.

Appellant was represented by its secretary-treasurer and plant manager, George M. Martin. Respondent appeared through its counsel, Keith D. McGoffin. Eugene E. Barker, Olympia court reporter, recorded

the proceedings.

Witnesses were sworn and testified. Exhibits were admitted.

From testimony heard and exhibits examined, the Pollution Control Hearings Board makes these

FINDINGS OF FACT

I.

Appellant owns and operates a shipbuilding and ship repair business and plant at 1112 Alexander Avenue, Tacoma, Pierce County. In the clearing of steel hulls prior to painting, appellant uses power-impelled abrasive substances with which to scour the metal.

II.

On September 24, 1971, after receiving a no-penalty sandblasting emission citation (Notice of Violation No. 4070) from respondent, appellant assured respondent in writing it was converting its metal-cleaning process from dry to wet and from sand to black composition and was erecting a protective house over its blasting equipment.

III.

In March of 1972, appellant was given a copy of respondent's "Guidelines for Sandblasting and Abrasive Control," a one-page publication which listed acceptable alternatives to avoid violations of Section 9.03 of respondent's Regulation I. The "Guidelines" ban "dry uncontrolled sandblasting," lists respondent-approved dry abrasives which may be used in the open provided "adequate tarping is used," and lists four methods by which blasting may be controlled.

IV.

On May 14, 1973, inspectors employed by respondent observed for

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 ten consecutive minutes heavy blasting dust of 80 percent opacity
2 coming from a steel hull on uncovered ways at appellant's plant.
3 Appellant was served with Notice of Violation No. 7718, citing
4 Section 9.03 of respondent's Regulation I. Subsequently, and in
5 connection therewith, appellant was served with Notice of Civil
6 Penalty No. 878 in the maximum allowable amount of \$250.00 which is
7 the subject of this appeal.

8 V.

9 Section 9.03 of respondent's Regulation I makes it unlawful to
10 cause or allow the emission of an air contaminant for more than three
11 minutes in any one hour of opacity denser than 40 percent.

2 VI.

13 The blasting emission cited in Notice of Violation No. 7718 was
14 caused by an abrasive approved by respondent, but there was no tarping
15 and none of the other approved methods as outlined in the "Guidelines"
16 was employed to control the emissions.

17 VII.

18 Since receiving Notice of Violation No. 7718, appellant has ceased
19 its own preparation of metal plates used in new-ship construction. At
20 a substantial increase in cost it now subcontracts this work to another
21 shipyard equipped with emission-control abrasive-cleaning devices.

22 From these Findings, the Pollution Control Hearings Board comes to
23 these

24 CONCLUSIONS

5 I.

26 Appellant, neither living up to its own written assurance of

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 September 24, 1971 nor being in full compliance with the "Guidelines,"
2 was in violation of Section 9.03 of respondent's Regulation I as cited
3 in Notice of Violation No. 7718.

4 II.

5 The above Conclusion would indicate the Board should sustain the
6 penalty. However, the Board feels that when an appellant makes a
7 positive effort to achieve compliance, penalty mitigation is proper.
8 Appellant in this matter apparently now is following a metal-cleaning
9 practice which will keep it in compliance with the preparation of new-
10 construction metal plates.

11 Therefore, the Pollution Control Hearings Board issues this

12 ORDER

13 The appeal is denied; Notice of Civil Penalty No. 878 is sustained
14 in the amount of \$250.00, but appellant is directed to pay \$125.00, the
15 balance of \$125.00 to be suspended if appellant incurs no similar
16 violations for a period of six months from the date this Order becomes
17 final.

18 DONE at Lacey, Washington this 9 day of October, 1973.

19 POLLUTION CONTROL HEARINGS BOARD

20 Walt Woodward
21 WALT WOODWARD, Chairman

22 W. A. Gissberg
23 W. A. GISSBERG, Member

24 Mary Ellen McCaffree, the other member of the Board, did not
25 participate in these proceedings.

26 FINDINGS OF FACT,
27 CONCLUSIONS AND ORDER